

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:)
)
Amendment of Part 90 of the) RM-
Commission's Rules Relating to)
Implementation of Public Safety)
Radio Systems)

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: The Commission

PETITION FOR RULEMAKING

The Association of Public-Safety Communications Officials-International, Inc. ("APCO"), pursuant to Section 1.401 of the Commission's Rules, 47 C.F.R. §1.401, hereby submits the following Petition requesting the initiation of a rulemaking proceeding to provide for extended implementation ("slow growth") periods for new wide-area public safety systems on frequencies below 800 MHz, on terms and conditions similar to those which apply on frequencies above 800 MHz pursuant to Section 90.629 of the Commission's Rules, 47 C.F.R. §90.629.

APCO, founded in 1935, is the nation's oldest and largest public safety communications organization, with over 13,000 members involved in all aspects of the management and operation of police, fire, emergency medical, forestry conservation, highway maintenance, local government, emergency management, and other public safety communications facilities. APCO is a certified frequency coordinator for Part 90 Police, Local Government, and 800 MHz Public Safety Pool channels.

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The FCC has long recognized that there is a need under specific circumstances to allow public safety entities extended implementation periods for construction of licensed radio systems.¹ Two different Commission rules address this issue, Section 90.155(b), which applies to all Part 90 radio frequencies, and Section 90.629, which applies only to systems operating on frequencies above 800 MHz pursuant to Subpart S. There are several differences between these rules, the most significant of which is a requirement under Section 90.155(b) that local government applicants seeking more than the standard eight months to construct their system submit “a showing that the system has been approved and funded for implementation....” In contrast, Section 90.629 allows applicants for 800 MHz systems to obtain a five-year extended implementation (“slow growth”) period if the “applicant is required by law to follow a multi-year cycle for planning, approval, funding and purchasing a proposed system” and it indicates “whether funding approval has been obtained and if not, when such funding approval is expected.” 47 C.F.R. §90.629(b). In other words, an extended construction periods can be approved for systems below 800 MHz only if the system is fully approved and funded, whereas an applicant for a system above 800 MHz could rely on Section 90.629 and obtain “slow growth” authorization without firm, prior funding approval.

Until recently this distinction did not have a significant impact, as most applications for frequencies below 800 MHz were for relatively minor additions to existing systems. Thus, in most cases, it was not unreasonable to require applicants for frequencies below 800 MHz to demonstrate that they have secured necessary funding and

¹ First Report and Order in Docket 79-191, 85 FCC 2d 56 (1980); Second Report and Order in Docket 79-191, 90 FCC 2d 1281 (1982).

approval prior to granting extensions of the construction deadline. In contrast, many 800 MHz applications are for new wide area (and often trunked) radio systems which may require several years to obtain necessary approval and funding and for which the more flexible requirements of Section 90.629 are appropriate.

This distinction between systems operating above and below 800 MHz is about to change, however, due to “spectrum refarming” of the VHF high band (150-170 MHz) and UHF bands (450-470 and 470-512 MHz). Rules adopted in PR Docket 92-235 will lead to the availability of new narrowband equipment and the possibility of using trunking technology. That will create an opportunity, and ultimately a necessity, for licensees to construct entirely new radio systems, requiring extensive planning, approval, funding, equipment acquisition, and construction. Applicants for such large, complex systems are unlikely to be able to secure approvals and funding prior to seeking licenses from the Commission. Thus, in many respects, such projects will resemble, and should be treated in a similar fashion as the multi-year 800 MHz projects eligible for slow-growth treatment under Section 90.629.

Allowing additional time for the implementation of new public safety radio systems is in the public interest as it will promote more effective and efficient public safety communications. Agencies will be encouraged to develop and promote projects to implement new spectrum efficient narrowband equipment, confident that adequate time will be permitted to obtain funding and approval. As users gradually migrate to narrowband technology, additional channels will eventually become available to help alleviate spectrum congestion. Many of the new systems are also likely to be trunked

operations, which may encourage greater use of wide-area, shared systems which are often more efficient and lead to improved interoperability

Therefore, APCO suggests that the Commission propose a modification to Section 90.155 to provide that the Commission may authorize an extended implementation period of up to five years for local government applicants required by law to follow a multi-year cycle for planning, approval, funding and purchasing a proposed system, provided that the applicant indicates whether funding approval has been obtained and if not, when such funding approval is expected. One method for accomplishing this result would be to amend Section 90.155 (b) by adding the following:

Local government applicants for any frequency subject to this Part may also seek extended implementation authorization pursuant to Section 90.629;

and by amending Section 90.629 by adding a new subsection (f) as follows:

Pursuant to Section 90.155(a), the provisions of this section shall apply to local government applicants for any frequency subject to this Part.

These or similar minor rule changes will eliminate a current anomaly in the Commission's rules which no longer serves any constructive purpose. Pending this rule change, the Commission should look with favor upon waiver requests from public safety agencies seeking extended implementation periods for new systems below 800 MHz.

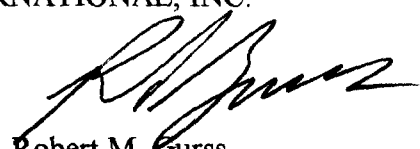
CONCLUSION

For the reasons set forth above, the Commission should initiate a rulemaking proceeding to modify its rules regarding extended implementation authorization for public safety users on frequencies below 800 MHz.

Respectfully submitted,

ASSOCIATION OF PUBLIC-SAFETY
COMMUNICATIONS OFFICIALS-
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